



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of
the Request for Opinion Concerning
the Conduct of JEFF MCGOWAN,
City Attorney,
City of Fernley,
State of Nevada,

Request for Opinion No: 08-61C

Subject. /

INVESTIGATOR'S REPORT (TabA):

Introduction:

On September 15, 2008, an Ethics Complaint was filed against Jeff McGowan (McGowan), the City Attorney for the City of Fernley, Nevada, alleging that he misused the City's credit card for personal gain.

Jurisdiction:

As a City Attorney, no dispute exist that McGowan is a public officer, as defined by NRS 281A.160. Therefore, the Nevada Commission on Ethics (Commission) has jurisdiction to render an opinion in this matter, pursuant NRS 281A.280 and NRS 281A.440.

1 **Issue:**

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3 The issue is whether McGowan violated NRS 281A.4020.2, on dates in the Complaint when he
4 allegedly made unauthorized purchases using a City-issued credit card.
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6 **Request for Opinion No. 08-61C (Ethics Complaint). (Tab B):**

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8 The Ethics Complaint was filed by Joseph Specchio (Specchio). The following is the summary
9 of the allegations:

10 On dates noted in the complaint, McGowan violated NRS 281A.400.2. (Exhibit 11) by
11 improperly charging gas and food on the City-issued credit card.
12

13 **Response to Ethics Complaint No. 08-61C. (Tab C):**

14
15 On September 30, 2008, a Notice to Subject of Request for Opinion (Ethics Complaint) was sent
16 to McGowan. A response to Ethics Complaint was received from McGowan on October 13,
17 2008.
18

19 McGowan stated in his response that that the summary of all purchases he made has been
20 provided by City Treasurer and the summary provides further clarification and justification of all
21 his expenditures.
22

23 **Investigation Summary:**

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25 I interviewed the following individuals and reviewed the following documents:
26

27 **Witnesses interviewed. (Tab D):**

1 Joseph Specchio, requestor of the Ethics Complaint 08-61C, (via fax on October 17, 2008),
2 (Exhibit 1).

3
4 Bonnie Duke (Duke), City of Fernley Finance Director/City Treasurer, witness (via e-mails on
5 October 15, 2008), (Exhibit 2).

6
7 Jeff McGowan, City of Fernley Attorney, subject of Ethics Complaint 08-61C (via e-mails on
8 October 16, 2008 and October 19, 2008), (Exhibit 3).

9
10 **Documents. (Tab E):**

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12 I obtained and reviewed the following documents and materials relevant to the investigation:

- 13
14 - The City of Fernley Personnel Manual (Personnel Manual), section 4.17 Personal
15 Employee Expenses. (Exhibit 4).
16 - Personnel Manual, section 5.16 Travel Expenses. (Exhibit 5).
17 - Personnel Manual, section 6.2 Code of Ethical Standards. (Exhibit 6).
18 - The City of Fernley Credit Card Policy (Credit Card Policy). (Exhibit 7).
19 - A letter from Bonnie Duke, City of Fernley Finance Director/City Treasurer. (Exhibit
20 8).
21 - A copy of McGowan's employment contracts with the City of Fernley (Exhibit 9).
22 - A copy of Mary Hardisty's (Hardisty) contract with the city of Fernley (Exhibit 10).
23 - Relevant statutes. (Exhibit 11).

24
25
26 **Investigative findings:**

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28 The following are my investigative findings:

1 McGowan is the City Attorney for the City of Fernley, Nevada. As the Head of the City
2 Attorney's Office, McGowan was issued and authorized to use the City credit card while on city
3 business. (Exhibit 7), (Exhibit 9).

4
5 The City of Fernley Personnel Manual (Exhibit 4), (Exhibit 5) and the Credit Card Policy
6 (Exhibit 7) are indistinct and therefore offer a great discretion to the City Treasurer and the City
7 Manager for approval of the City-related expenses. The City Treasurer stated that policies related
8 to expenditures under "hospitality" and "travel" are currently under review as clearer definition
9 is needed (Exhibit 2). Although I believe McGowan did not act in contravention of the City
10 Policies, he should be mindful of his official position and refer to a section 6.2 in Personnel
11 Manual (Exhibit 6) to better analyze his actions and prevent even the appearance of impropriety.

12
13 I believe the only allegation that may be considered as an ethics violation is a purchase of a
14 \$3.09 beverage on May 7, 2008 at Chevron station in Dayton, Nevada. According to the Credit
15 Card Policy (Exhibit 7) beverage purchases should be reimbursed. However, the fact that the
16 City Policies are too vague (Exhibit 4), (Exhibit 5), and the fact that all of McGowan's expenses
17 were approved (Exhibit 8) by the City's Finance Director/Treasurer pursuant to Personnel
18 Manual, section 5.16 (Exhibit 5) suggests that there is no evidence of personal gain.

19
20 Furthermore, as alleged by Specchio, there is no City policy referring to purchases of meals
21 within 30 mile radius of the City. In addition, the evidence shows that McGowan did not claim
22 his expenses of much greater amount than \$3.09 while on City-related business (Exhibit 8). This
23 suggest that the City has not suffered any damage from McGowan's use of the City credit card.

1 **Investigative conclusion:**

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3 The evidence does not support the claim that McGowan violated the NRS 281A.400.2 because of
4 the City's vague policies and the fact that all expenses were approved by the City Finance
5 Director (Exhibit 8).

6 Therefore, on the allegations in Ethics Complaint No. 08-61C, I believe that Jeff McGowan did
7 not violate NRS 281A.400.2:
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9 On September 26, 2007, insufficient evidence.

10 On February 13, 2008, insufficient evidence.

11 On March 14, 2008, insufficient evidence.

12 On April 21, 2008, insufficient evidence.

13 On April 22, 2008, insufficient evidence.

14 On May 6, 2008, insufficient evidence.

15 On May 7, 2008, insufficient evidence.
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17
18 Dated this 25 day of November, 2008.

19
20 NEVADA COMMISSION ON ETHICS
21 Patricia D. Cafferata, Esq.
22 Executive Director

23 
24 By: Mike Vavra, Investigator.
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